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Remarks:

The amendments and remarks presented herein are believed to be fully responsive to the Office Action dated April 22, 2005. A Petition and Fee for a one month extension of time is attached to extend the period for response to August 22, 2005.

Claims 5-10 and 18-23 are pending in the application. Claims 5 and 10 have been amended above and claims 1-4 and 11-17 have been canceled herein without prejudice. New claims 18-23 have been added. The amendments and new claims are fully supported in the specification and drawings as originally filed. No new matter has been added.

INTERVIEW CONDUCTED ON APRIL 13, 2005

The undersigned attorney wishes to express his gratitude to Examiner Bryant for the courtesies extended to Mr. Frederick Burkhart of Van Dyke, Gardner, Linn & Burkhart, LLP, during the interview conducted on April 13, 2005. During the interview, Mr. Burkhart was provided the opportunity to discuss with the Examiner the nature of Applicant's invention and the manner in which it distinguishes over the cited prior art references, namely, the Lend-A-Hand installation instructions, and Pleiss, U.S. Patent No. 1,796,344. Applicant submits herewith amendments to independent claim 5 as requested by the Examiner during the interview and as set forth in the Interview Summary provided with the Office Action.

DRAWING OBJECTIONS

Figure 3 was objected to for not including a reference number 22b at the U-shaped receiving portion at the left side of the bracket. Applicant respectfully submits that the U-shaped receiving portion that receives the end of the handle in the storage position may be defined by U-shaped portions at both sides of the bracket. However, Applicant has added reference number 22b at the left side U-shaped receiving portion of Figure 3.

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Figure 3 was also objected to for not including a floor portion or plate below the receiving portions and above the mounting holes. Applicant has amended Figure 3 to have a floor portion 27 below the receiving portions.

A Replacement Sheet with the amendments to Figure 3 described above is attached.

SPECIFICATION OBJECTION

The specification was objected to for not describing how the pivot pin is mounted to the bracket. The specification has been amended as noted above to describe the floor portion or retaining plate added to Figure 3, in order to obviate this objection. Applicant respectfully submits that, although the bracket may include such a plate or structure, the description of the plate is not required in the specification since such a plate or structure is known in the art. Also, although shown in Figure 3 as a substantially planar plate positioned below the U-shaped receiving portions, Applicant submits that any type of plate or structure may be implemented at the bracket to retain the pin and allow the biasing member or spring to act against it to urge the handle into the U-shaped receiving portions.

CLAIM REJECTIONS

Claims 5-10 were rejected under 35 U.S.C. §102(e) as being anticipated by Marshall et al., U.S. Patent No. 6,843,468. Claims 5-10 were also rejected under 35 U.S.C. §103(a) as being unpatentable over the Lend-A-Hand installation instructions, in view of Pleiss, U.S. Patent No. 1,796,344.

Applicant respectfully traverses the rejections under 35 U.S.C. §102(e) and §103(a) for the reasons set forth below.

Applicant has amended independent claim 5 to clarify that the at least one bracket has a handle receiving portion and a pair of mounting apertures, with the mounting

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apertures being laterally offset from the handle receiving portion. The mounting apertures are generally vertically aligned when the bracket is mounted to the surface of the vehicle.

With respect to the rejection under 35 U.S.C. §102(e), Applicant submits that the Marshall et al. patent is not prior art under 35 U.S.C. §102(e) with respect to the present application. In accordance with 37 CFR 1.131, Applicant submits herewith a Declaration which declares that the present invention was invented by Applicant prior to the effective date of the Marshall et al. patent (the filing date of the priority application), namely, June 20, 2002. A tooling quote dated December 6, 2001 for making the fold away handrail bracket of the present invention is submitted with the Declaration as evidence that the present invention was reduced to practice some time prior to December 6, 2001. The Declaration is signed by the named inventor for the present application. Accordingly, the rejection of claims 5-10 under 35 U.S.C. §102(e) is obviated and withdrawal of the rejection is respectfully requested.

With respect to the rejection under 35 U.S.C. §103(a), Applicant submits that the combination of the Lend-A-Hand installation instructions and Pleiss does not disclose, teach, suggest or render obvious the method of the present invention, particularly as set forth in claims 5-10 of the present application. The Lend-A-Hand installation instructions disclose a conventional handrail and bracket assembly for a vehicle, and do not disclose or suggest a bracket with mounting apertures laterally offset from the handle receiving portion. The Lend-A-Hand installation instructions teach away from the present invention by clearly disclosing that the hand rail is temporarily fastened to the top bracket to position the bracket at the vehicle for marking the holes on the door frame (step 1), and the holes are marked and the bracket is then attached to the door frame (step 2), and the handrail is then placed in the bracket (step 3). The Lend-A-Hand installation instructions thus do not disclose or suggest, and moreover actually teach away from, the method of the present invention, which mounts the at least one bracket to the surface of the vehicle *after* the hand rail is attached to the at least one bracket.

Also, Pleiss, either alone or in combination with the Lend-A-Hand installation instructions, does not disclose or suggest the method of the present invention. Applicant submits that Pleiss does not disclose or suggest assembling a hand rail to a bracket and then mounting the bracket to a surface of the vehicle. Pleiss discloses a towel rack with rods that

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are pivotally mounted to a bracket. The bracket includes ears through which screws may pass to secure the bracket to the support. Applicant respectfully submits that Pleiss is non-analogous art, since there is no suggestion or motivation to apply the teachings of the towel rack of Pleiss to a handrail assembly for an exterior door of a vehicle and, thus, there is no motivation to combine the teachings of Pleiss with the teachings of the Lend-A-Hand installation instructions. Moreover, even if such a combination is made, the combination does not render the method of the present invention obvious, since nowhere in Pleiss is there a disclosure of first mounting the rods to the bracket and then mounting the bracket to the support after the rods are attached to the bracket. Furthermore, Pleiss does not disclose, teach or suggest providing a bracket with a pair of generally vertically aligned mounting apertures that are laterally offset from the receiving portion of the bracket.

Accordingly, Applicant respectfully submits that the combination of the Lend-A-Hand installation instructions and Pleiss, either alone or in combination with any other prior art of record, is not proper and further does not disclose, teach, suggest or render obvious the method of the present invention, particularly as set forth in independent claim 5 and in the claims depending therefrom. Reconsideration and withdrawal of the rejections of claims 5-10 is respectfully requested.

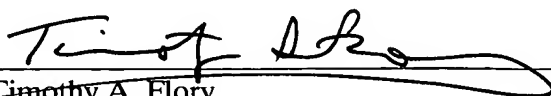
Claims 5-10 and 18-23 are pending in the application. Applicant respectfully submits that claims 5-10 and 18-23 are in condition for allowance and a notice to that effect is earnestly and respectfully requested.

Respectfully submitted,

DARREN EBY

By: Van Dyke, Gardner, Linn & Burkhart, LLP

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